

such as a dedicated decision-maker and other things which are a preemption of State law, as far as I can see. That leaves us with the question of whether or not, if we are doing that, it is constitutional.

Can we make Federal conditions on a State cause of action, and is this not preemption of State law? The Norwood amendment has created a Federal cause of action modified in the same ways. I think it is more workable, and I think clearly it will withstand the test of constitutionality.

With regard to the liability provisions, as a result of the negotiation with the President, the Norwood amendment increased the caps on damages to \$1.5 million from the \$500,000 that was advocated in the Fletcher-Peterson bill.

The Norwood amendment will protect small businesses and mitigate against possible increases of uninsured, as well as improving health care delivery. This amendment finally moves H.R. 2563 to a place of agreement, a place where the Patients' Bill of Rights can pass the House; and if the other body is willing to work with us in good faith, we can ultimately get the President's signature and put this legislation into law.

Mr. Chairman, I encourage each and every one of my colleagues to support a real solution to the issue of patients' rights. Support the Norwood amendment.

Mr. ANDREWS. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WAXMAN), who is a champion of consumer groups across the Nation that strongly oppose the Norwood amendment.

(Mr. WAXMAN asked and was given permission to revise and extend his remarks.)

Mr. WAXMAN. Mr. Chairman, I am sorry to say it is hard to escape the conclusion that last night President Bush finally put so much pressure on the gentleman from Georgia (Mr. NORWOOD) that in the words of the New York Times editorial today he, quote, "apparently sold out his own cause." That is sad for Americans who need and deserve a strong and enforceable Patients' Bill of Rights.

Mr. Chairman, I just want to review what the American Medical Association concluded about the deal agreed to by their former ally: It overturns the good work done by States in protecting patients; it reverses developing case laws that allow patients to hold plans accountable when they play doctor. In other words, it makes things worse instead of better for patients. It provides patient protections, but does not allow enforcement of those rights.

If the White House operatives thought they could defend the so-called "compromise" President Bush talked the gentleman from Georgia (Mr. NORWOOD) into, why did they insist that he make a commitment without talking it over with his allies in and out of the government? Why did they insist that

drafting be rushed through in the wee hours of the morning, and insist that they move forward before consumer and physician groups and the American public could see and understand the provisions?

Why do we find ourselves here on the House floor voting on an amendment that either deliberately or accidentally preempts State laws, disadvantages patients, and provides HMOs with a presumption that they are right and the patient and physicians are wrong.

Mr. Chairman, I think the answer is obvious. They knew that if people really got a chance to look at this, they would see it for the sham that it is.

This is not the way to enact a Patients' Bill of Rights. This is the way to ensure another stalemate. Reject this amendment.

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Mr. NORWOOD. Mr. Chairman, everybody knows that the New York Times is not all of our Bible. They get it wrong frequently. They even reported I lost 60 pounds; and you know darn well it was 40, so they do not get it right.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BARTON).

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, my father was a combat navigator in World War II. He flew a B-24 liberator on 50 combat missions. He won every combat award the Army Air Corps could award except the Congressional Medal of Honor. I am glad he did not win that one or I would not be here.

When I got elected to Congress I went to him and I asked him for some advice.

I said: Dad, what should I do when I get up there?

He said: Son, always pick a good pilot.

I said: Pick a good pilot. What do you mean?

He said: There are going to be lots of rascals in Washington and they're going to try to flimflam you; but if you've got a good pilot, he'll set the right course and he'll always get you home.

Last week the gentleman from Georgia (Mr. NORWOOD) was the toast of the town on the liberal side because he was holding out for the Patients' Bill of Rights. He negotiated an agreement with the White House and President Bush which I have looked at this afternoon, it looks pretty good to me, and all of a sudden today he is accused of selling out.

Mr. Chairman, the gentleman from Georgia is a good pilot. I would fly with him anywhere. The day the gentleman from Georgia sells out is the day "In God We Trust" that is on the facade behind us falls off that facade.

I am with the gentleman from Georgia, I am going to vote for this bill, and

I say God bless the gentleman from Georgia, he is a good man.

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE), who represents a State that just enacted a very strong patient protection law that will be repealed by this amendment.

Mr. PALLONE. Mr. Chairman, when you are sick and you have been denied care and often do not have the energy to fight, the Norwood amendment puts all sorts of roadblocks in the way of a real independent review. The real Patients' Bill of Rights allows you to quickly and informally go to an independent review board. They look at the patient, they look at the medical record, look at whatever they want and decide what care you need. Norwood turns this around and puts roadblocks in your way. It makes it a judicial-type procedure stacked against you. The HMO picks the information it sends to the board, the patient has no right to see it and no right to ask witnesses any questions. You will need a lawyer under Norwood in order to make your case. You have to prove that the HMO's decision was wrong and should be either affirmed or overturned. There is no flexibility with the board to craft a plan of care somewhere in between.

Worse, if the board agrees with the HMO, a presumption in favor of the HMO makes an appeal to the courts almost impossible.

Norwood stacks the deck against you. And it gives all the cards to the HMO.

Mr. ANDREWS. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa (Mr. GANSKE), one of the two principal authors of this bill.

Mr. GANSKE. Mr. Chairman, I thank the gentleman for yielding time.

Here we are. This is the nitty-gritty of the debate. We have sort of been fooling around until we get to the Norwood amendment.

My colleague from Georgia is an acknowledged expert on this issue. I wonder if my colleague would clarify some issues for me.

The gentleman from Georgia (Mr. NORWOOD) last night at the Committee on Rules agreed that he had said that, quote, "HMOs will be treated better than others in the Norwood amendment."

Is that because HMOs are being given affirmative defenses?

Mr. NORWOOD. Mr. Chairman, will the gentleman yield?

Mr. GANSKE. I yield to the gentleman from Georgia.

Mr. NORWOOD. Because there is no way that you can make it exactly the same between the physician and the HMO, I do not believe. If the gentleman is talking about the rebuttable presumption, and I presume he is, what I would say to him there is that I did the best I could do in negotiations to continue to allow the patient to have the recourse to going into court.

Mr. GANSKE. But it is fair to say, then, that he stands by his statement?